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6 BEFORE THE HEARING BOARD
7 OF THE
8 BAY AREA AIR QUALITY MANAGEMENT DISTRICT
9 STATE OF CALIFORNIA
10

11 In the Matter of the Application of:) **Docket No. 3428**
12 STEELSCAPE INC.)
13) **ORDER GRANTING**
14) **VARIANCE**
15 For a Variance from Regulation 2, Rule 1,)
Section 307 (Condition #4926, Item Nos. 3)
and 7))
16 _____)

17 The above-entitled matter is an application for variance from the provisions of Bay Area
18 Air Quality Management District ("District") Regulation 2, Rule 1, Section 307 (Condition
19 #4926, Item Nos. 3 and 7) at the coil painting line located at 2995 Atlas Road, Richmond,
20 California 94806, owned and operated by Steelscape, Incorporated (Applicant). Applicant
21 filed an application for Variance on April 30, 2003.

22 Alison Hartman of Steelscape, Inc, appeared for Applicant.

23 Toby Sherwood, Assistant District Counsel, appeared for the Air Pollution Control
24 Officer ("APCO").

25 The Clerk of the Hearing Board provided notice of the hearing on the application in
26 accordance with the requirements of the Health and Safety Code. The Hearing Board heard the
27 request for variance on June 5, 2003 and June 19, 2003.

28 The Hearing Board provided the public an opportunity to testify at the hearing as

1 required by the Health and Safety Code. No members of the public testified. The Hearing Board
2 received evidence from both parties. The APCO did not oppose the granting of the variance. At
3 the June 5, 2003, hearing, Applicant amended the application to change the requested variance
4 period to April 30, 2003, through and including October 30, 2003. At the June 19, 2003,
5 hearing, Applicant requested a further amendment of the variance period to April 30, 2003
6 through and including September 22, 2003.

7 The Hearing Board declared the evidentiary portion of the hearing closed after receiving
8 testimony. Following deliberation on June 5, 2003, the Hearing Board decided the matter for
9 Condition # 4926, Item No. 3. The hearing Board requested that Applicant return on June 19,
10 2003 with proposals to further reduce excess VOC emissions. The Hearing Board heard
11 Applicant's new proposals on June 19, 2003. After deliberation, the Hearing Board decided the
12 matter.

13 **BACKGROUND**

14 Applicant operates a coil painting line, producing pre-painted coils of steel that are sold
15 to manufacturers to be further processed into various consumer products. In the process, solvent-
16 laden organic coatings are roller applied in coater rooms and then cured in ovens. Solvent from
17 this curing process and VOC collection from the coater rooms are combined and carried to the
18 afterburner for thermal destruction. The coater rooms are subject to Regulation 2, Rule 1,
19 Section 307 (Condition #4926, Item No. 3). The afterburner is subject to Regulation 2, Rule 1,
20 Section 307 (Condition #4926, Item No. 7). Applicant acquired the assets of the Richmond
21 facility on May 30th, 2002. Documents provided by the previous owner indicated that the
22 afterburner had operated within the current BAAQMD permit conditions. No documentation
23 was found regarding the coater rooms.

24 On October 30, 2003, during a BAAQMD inspection of the facility, it was noted that the
25 coater rooms were not operating at the required minimum negative pressure of -0.05 inches of
26 water. This condition was in violation of Regulation 2, Rule 1, Section 307 (Condition #4926,
27 Item No. 3). Applicant submitted a purchase order for calibration equipment and made contact
28 with the California Polytechnic State University, requesting assistance in determining the proper

1 solution to the air flow problem. On March 5, 2003, various operating scenarios were tried and
2 applicant was unable to achieve a pressure of -0.05 inches water in the coater rooms. On March
3 6, 2003, Applicant notified the BAAQMD of the inability to meet the pressure requirement.

4 On April 1, 2003, Applicant reviewed the design submitted by the University student.
5 Evaluation of the design indicated that it was necessary to further pursue an engineering study.
6 On April 14, 2003, ADS Company, a professional air flow company, was contacted to assist in
7 studying the air flow problem in the coater room and assist in designing a permanent solution.

8 On May 16, 2003, Applicant performed air flow tests to verify air flows into and out of
9 the coater rooms. It was determined that no excess VOC emissions were resulting from the
10 coater room pressure.

11 On March 13, 2003, Steelscape's first source test was performed on the afterburner. The
12 source test was performed by the BAAQMD and indicated a destruction efficiency of 98.5%.
13 Applicant's air permit requires a minimum destruction efficiency of 99.5%. Monitoring
14 equipment was used to determine emissions throughout the afterburner system. The VOC
15 emissions from the primary heat exchanger were found to be abnormally high, indicating a
16 failure of the heat exchanger. Applicant investigated possibility of repairing heat exchanger, but
17 this was found to be impossible. A new heat exchanger was ordered and at the time of the
18 June 5, 2003 hearing, it was expected that the heat exchanger would be installed on October 29,
19 2003. Following the request of the Hearing Board to find ways of reducing excess VOC
20 emissions, Applicant was able to have manufacture of the heat exchanger expedited. The heat
21 exchanger will now be installed and operational by September 22, 2003.

22 Applicant is not considered a small business as described by California Health and Safety
23 Code Section 42352.5(b) (2), and the plant emits more than ten tons per year of air contaminants.

24 **DISCUSSION**

25 Applicant's noncompliance with Regulation 2, Rule 1, Section 307 (Condition #4926,
26 Item Nos. 3 and 7) resulted from conditions beyond Applicant's reasonable control. Applicant
27 and experts contracted by Applicant are unable to determine how the previous owner operated
28 the coater rooms at -0.05 inches water without endangering the health and safety of the workers

1 in the coater room. It is determined that no excess emissions will result from operating the
2 coater rooms at the higher pressure. Failure of the heat exchanger was due to cracks in the weld
3 joints and expansion joints, a result of a poor design. Applicant could have neither predicted nor
4 prevented the failure. Excess volatile organic compound emissions were determined to be 2.77
5 tons over the variance period.

6 **SPECIFIC FINDINGS**

7 **On the matter of Variance from Regulation 2, Rule 1, Section 307, Condition #4926,**
8 **Item No. 3** the Hearing Board finds:

9 1. Applicant was in violation of Regulation 2, Rule 1, Section 307, Condition #4926,
10 Item No. 3, which states, “The rooms in which S-2 through S-5, S-7, S-27 and the Coating
11 Applicators (S-14, S-15, and S-16) are located shall remain at a minimum negative pressure of
12 0.05 inches of water at all times when the coaters are running and/or being cleaned. To insure
13 that the minimum negative pressure is maintained, a manometer shall be installed at the coating
14 room(s).”

15 2. Since Applicant and outside experts are unable to determine how the previous owner
16 could have operated the facility with a minimum negative pressure of –0.05 inches of water, the
17 Hearing Board finds that the violation was beyond the reasonable control of the Applicant.
18 Requiring compliance would result in shutting down operations, resulting in 74 people being laid
19 off, and would thus result in an arbitrary or unreasonable taking of property.

20 3. There are no excess emissions from the coater rooms, therefore requiring compliance
21 would be without a corresponding benefit in reducing air contaminants.

22 4. Applicant considered curtailing operations in lieu of obtaining a variance, but the
23 minimum negative pressure requirement would not be satisfied by curtailing operations in the
24 absence of a complete shutdown. A variance is thus needed.

25 5. Applicant will reduce emissions to the maximum extent feasible during the variance
26 period through some reduction in operations.

27 6. Applicant will monitor the coater rooms during the variance period as required in the
28 conditions below.

1 **On June 5, 2003, The Hearing Board voted on the following motion:**

2 That a variance be granted for the period April 30, 2003, through and including
3 October 30, 2003, from Regulation 2, Rule 1, Section 307, Condition #4926, Item No. 3. That
4 the variance be subject to the following condition:

5 1. Applicant shall maintain daily pressure reading logs for each of the three rooms and
6 submit them to the District and the Hearing Board by the fifteenth day of the month for the
7 previous month.

8 Moved by: Allan R. Saxe, Esq.

9 Seconded by: Terry A. Trumbull, Esq.

10 AYES: Christian Colline, P.E., Allan R. Saxe, Esq. and Terry A. Trumbull,
11 Esq.

12 NOES: Julio Magalhães, Ph.D., and Thomas M. Dailey, M.D.

13 **On the matter of Variance from Regulation 2, Rule 1, Section 307, Condition #4926,**
14 **Item No. 7** the Hearing Board finds:

15 1. Because of the heat exchanger failure, Applicant was in violation of Regulation 2,
16 Rule 1, Section 307, Condition #4926, Item No. 7, which states, “The Precursor and Non-
17 precursor Organic Compound destruction efficiency of the afterburner shall be maintained at a
18 minimum of 99.5% by weight whenever the inlet concentration of VOC to the afterburner is
19 equal to or greater than 500 ppm, measured as methane. Below a concentration of 500 ppm, the
20 precursor organic destruction efficiency shall be kept at a minimum of 95% by weight.”

21 2. The Hearing Board determined that the Applicant did not have reason to suspect
22 that the afterburner was out of compliance based on the most recent source test results provided
23 by the previous owner of the facility. Thus, the violations were due to conditions beyond the
24 reasonable control of the Applicant. Requiring compliance would result in painting operations
25 having to discontinue, effecting the employment of 74 employees; therefore, resulting in an
26 unreasonable taking of property.

27 3. Excess emissions of 96 pounds per day are small compared to the emissions in
28 the District of 554 tons per day in the year 2000. However, the variance period includes a

1 season of potentially high ozone concentration, and the Hearing Board has obtained the
2 agreement of the Applicant to reduce its emissions as enumerated in the conditions below.
3 Therefore, the Hearing Board finds that the closing of the facility would be without a
4 corresponding benefit in reducing air contaminants.

5 4. Applicant has given consideration to curtailing operations in lieu of obtaining a
6 variance, but the abatement efficiency requirement of the regulation would not be satisfied by
7 curtailing operations in the absence of a complete shutdown.

8 5. During the variance period the Applicant has agreed to take several significant
9 measures to reduce excess emissions. These measures include a process change, reduced
10 operations, and incentives for employees to use less polluting commute alternatives. These
11 measures result in an overall reduction of excess emissions of VOCs by the Applicant during
12 the variance period of 4.35 tons relative to the Applicant's original plan. The specific measures
13 are listed in greater detail in the conditions below. Therefore, the Hearing Board finds that the
14 Applicant will reduce excess emissions to the maximum extent feasible.

15 6. The District staff did not request that Applicant monitor or otherwise quantify
16 emission levels during the variance period beyond monitoring already required by Applicant's
17 operating permit.

18 **THEREFORE, THE HEARING BOARD ORDERS:**

19 A variance is granted for the period April 30, 2002, through and including September 22,
20 2003, from Regulation 2, Rule 1, Section 307, Condition #4926, Item No. 7. The variance is
21 subject to the following conditions:

22 1. Applicant shall implement forward coating operations starting June 19, 2003
23 throughout the variance period.

24 2. Applicant shall reduce painting operations from five to three days a week starting June
25 19, 2003 through July 31, 2003.

26 3. Applicant shall perform no coating operations starting at 6 a.m. on Spare The Air days
27 until 6 a.m., the following day. That day's work could be replaced with one of the other days
28 that Applicant would be closed.

1 4. Applicant shall provide transit passes or bicycles to those employees requesting
2 them during the variance period.

3 5. Applicant shall pay excess emission fees for 2.77 tons in accordance with District
4 Regulation 3, Schedule A.

5 Moved by: Terry A. Trumbull, Esq.

6 Seconded by: Julio Magalhães, Ph.D.

7 AYES: Christian Colline, P.E., Julio Magalhães, Ph.D., Allan R. Saxe, Esq.,
8 Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

9 NOES: None

10 **On the matter of Variance from Regulation 2, Rule 1, Section 307, Condition #4926,**
11 **Item No. 3,** the Hearing Board finds Applicant should be able to come into compliance by
12 September 22, 2003.

13 Therefore, on June 19, 2003, the Hearing Board voted to grant a variance for the period
14 April 30, 2003, through and including September 22, 2003, from Regulation 2, Rule 1, Section
15 307, Condition #4926, Item No. 3.

16
17 Moved by: Christian Colline, P.E.

18 Seconded by: Julio Magalhães, Ph.D.

19 AYES: Christian Colline, P.E., Julio Magalhães, Ph.D., Allan R. Saxe, Esq.,
20 and Thomas M. Dailey, M.D.

21 NOES: None

22 ABSTAINED: Terry A. Trumbull, Esq.

23 **THEREFORE THE HEARING BOARD ORDERS:**

24 A variance is granted for the period April 30, 2003, through and including September 22,
25 2003, from Regulation 2, Rule 1, Section 307, Condition #4926, Item No. 3. The variance is
26 subject to the following condition:

27 Applicant shall maintain logs of daily pressure readings for each of the three rooms and
28 submit them to the District and the Hearing Board by the fifteenth day of the month for the

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Thomas M. Dailey, M.D., Chair

Date